

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 324X)

**Norfolk Southern Railway Company—Abandonment Exemption—
in Durham County, N.C.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment a line of railroad in Durham County, North Carolina. The rail line proposed for abandonment extends approximately 1.9 miles from milepost DP 0.3 to milepost DP 2.2 in Durham, North Carolina (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

NSR submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

NSR states that no local traffic or overhead traffic has moved over the Line for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 324X).

Salvage Activities

If abandonment authority is granted in the proceeding, NSR intends to salvage rail and related track material. NSR or its contractors would remove the rail and track material from the roadbed and smooth the roadbed to a level surface. According to NSR, salvaged steel components would either be reused or sold as scrap and wooden crossties would be reused or disposed of in accordance with applicable laws and regulations.

NSR does not intend to remove any railroad ballast, alter the contour of the underlying roadbed, or change the existing drainage systems. No digging, burying, regrading, or other soil disturbance would occur.

There are three bridges on the Line. If the abandonment is approved, NSR does not intend to remove the bridges and would continue to maintain them until the abandonment process is complete.

NSR intends to sell the corridor intact in case there is interest in repurposing the right-of-way as a trail or for other public use.

Land Use

The Durham City-County Planning Department (DCCPD) and the City of Durham Transportation Department (DTD) each submitted comments stating that the proposed abandonment would be consistent with existing land use plans provided that the rail corridor remains intact. DCCPD and DTD also state that there are plans for the rail right-of-way to be purchased using a combination of federal, local, and private funds in order to repurpose the corridor as a multi-use trail. Based on the comments of DCCPD and DTD, OEA concludes that the proposed abandonment would be consistent with local land use plans and is not recommending any environmental mitigation regarding local land use.

The National Geodetic Survey (NGS) submitted comments stating that four (4) geodetic station markers are located in the vicinity of the Line and therefore could be disturbed by the proposed abandonment. Accordingly, OEA is recommending that the Board impose a condition on any decision granting abandonment authority in this proceeding to require NSR to consult with NGS prior to beginning salvage activities in order to allow for the possible relocation of geodetic survey markers that could be damaged or destroyed by salvage activities.

The Natural Resources Conservation Service (NRCS) submitted comments stating that, because the Line crosses agricultural land that has already been converted to urban use, the proposed abandonment would have no effect on farmland. Accordingly, no mitigation related to the conservation of agricultural land is recommended.

Because the Line is not located within a designated coastal zone, no mitigation regarding coastal zone management is necessary.

Water Resources

Based on OEA's review of available geospatial data, the Line does not cross any waterbodies or wetlands.² The rail right-of-way does, however, appear to cross a 100 year floodplain.³ NSR states that salvage activities would not alter the contour of the right-of-way or existing drainage systems. No ballast would be removed and no soil disturbance would occur as a result of the proposed abandonment.

NSR requested comments from the U.S. Army Corps of Engineers (the Corps) regarding potential impacts from the proposed abandonment on waters of the United States, including wetlands. The U.S. Army Corps of Engineers submitted comments concurring with NSR that a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required in connection with the salvage activities related to the proposed abandonment. Because salvage activities would be limited in scope and would be confined to any existing rail right-of-way, OEA concurs with NSR and the Corps that the proposed abandonment would not result in impacts to waters of the United States, including wetlands.

NSR submitted the Environmental Report to the North Carolina Department of Environmental Quality (NCDEQ) and the U.S. Environmental Protection Agency (USEPA) requesting comments regarding potential impacts of the proposed abandonment on waterways and water quality and specifically the need for a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1251). NCDEQ submitted comments through the North Carolina State Environmental Review Clearinghouse. In its comments, NCDEQ states no permits related to water quality would be required. NCDEQ recommends, however, that NSR repair and stabilize any exposed or eroding drainage ditches associated with the Line to prevent sediment loss beyond the railroad right-of-way.

Because salvage activities would be limited in scope and confined to the existing rail right-of-way, OEA concurs with NSR that proposed abandonment would not result in impacts to water resources. In order to ensure that NCDEQ's concerns are addressed, however, OEA is recommending a mitigation condition requiring NSR to consult with NCDEQ before beginning salvage activities and to comply with the reasonable recommendations of NCDEQ.

Solid Waste and Hazardous Materials

NSR states that no known hazardous waste sites or spill exist within or adjacent to the rail right-of-way. OEA's review has confirmed that there are no federally listed Superfund sites in the vicinity of the Line.⁴

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last visited May 31, 2016).

³ Federal Emergency Management Agency Flood Map Service Center, <https://msc.fema.gov/portal> (last visited May 31, 2016).

⁴ Environmental Protection Agency, NEPAAssist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited May 31, 2016).

In its comments, NCDEQ identifies eighteen (18) sites located within one mile of the Line that are listed in NCDEQ's database of sites where hazardous materials have been produced, handled, or spilled. NCDEQ recommends that the site files be reviewed to ensure that appropriate precautions are incorporated into any construction activities that encounter potentially contaminated soil or groundwater. OEA conducted a search of NCDEQ records and determined that none of the sites identified by NCDEQ are located within or immediately adjacent to the rail right-of-way.

Because salvage activity related to the proposed abandonment would be confined to the rail right-of-way and would not involve digging, regrading, or otherwise disturbing the soil underlying the Line, OEA believes that the proposed abandonment would not result in any impacts related to hazardous materials or hazardous wastes, including impacts related to the sites identified by NCDEQ. In order to ensure that NCDEQ's concerns are addressed, however, OEA is recommending a mitigation condition requiring NSR to consult with NCDEQ before beginning salvage activities and to comply with the reasonable recommendations of NCDEQ.

NCDEQ also recommends that NSR and its contractors make every feasible effort to minimize the generation of waste, the recycle materials for which viable markets exist, and to use recycled products and materials in the development of the project where suitable. NCDEQ notes that any waste generated during the implementation of the proposed abandonment should be disposed of at a solid waste management facility permitted by NCDEQ. NCDEQ recommends that NSR require contractors involved in the proposed project to provide proof of proper disposal of all waste generated.

Based on the description of proposed salvage activities provided by NSR, OEA does not anticipate any impacts from the proposed abandonment related to solid waste. In order to ensure that NCDEQ's concerns are addressed, OEA is recommending a mitigation condition requiring NSR to consult with NCDEQ before beginning salvage activities regarding the disposal of wastes related to the proposed abandonment and to comply with the reasonable recommendations of NCDEQ.

Biological Resources

In its comments, the United States Fish and Wildlife Service (USFWS) on the proposed abandonment in which USFWS identifies two federally listed endangered species that may potentially occur in the vicinity of the Line. The two federally listed endangered species that USFWS identified are Michaux's sumac (*Rhus michauxii*) and Smooth coneflower (*Echinacea laevigata*).

The Smooth coneflower is a perennial herb typically found in open woods, glades, cedar barrens, and other areas characterized by abundant sunlight and limited competition in the herbaceous layer. Michaux's sumac is shrub that survives best in areas where disturbance woodlands has created an open area, such as along roadways and the edges of clearings.⁵ A

⁵ U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office, https://www.fws.gov/raleigh/es_tes.html (last visited May 31, 2016).

little-used rail right-of-way would provide suitable habitat for both Michaux's sumac and the Smooth coneflower. It is therefore possible that individuals of this species may be present in the vicinity of the Line. Accordingly, OEA is recommending a condition requiring NSR to consult with USFWS prior to beginning salvage activities and to follow the reasonable recommendations of USFWS to prevent any potential impacts to Michaux's sumac and the Smooth coneflower.

Air Quality

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Accordingly, no mitigation regarding air quality is necessary.

Noise

Noise associated with salvage activities, if any, would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment. Accordingly, no mitigation related to noise impacts is necessary.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is sending a copy of this EA to the following agencies for review and comment: NCDEQ and USFWS.

HISTORIC REVIEW

According to NSR, the 1.9 mile rail line proposed for abandonment, known as the "Durham Belt Line" or the "Duke Belt Line" was constructed beginning in approximately 1892. The rail line was constructed by the Duke family to circumnavigate the city of Durham, North Carolina and connect the Duke plant to other rail lines in Durham. Line was sold to Norfolk Western and Railway Company in 1899.

NSR served the Historic Report, including topographic maps of rail right-of-way (the Area of Potential Effect, or APE), on the North Carolina Department of Natural and Cultural Resources (the State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In its comments, the SHPO notes that the Line serves as a geographical boundary for a number of historic districts listed in or eligible for listing in the National Register of Historic Places (the National Register). The districts are:

- North Durham-Duke Park Historic District Boundary Increase I;
- North Durham-Duke Park Historic District;
- Woods Grocery/Pearl Mill Village Historic District Boundary Increase
- Pearl Mill Village Historic District;
- Foster and West Geer Streets Historic District; and
- Bright Leaf Historic District.

The SHPO states that, because all salvage activity related to the proposed abandonment would be performed within the rail right-of-way and because the contour of the roadbed would not be altered, the proposed abandonment would not adversely affect the historic districts listed above.

The SHPO also states that there are no known archaeological sites located within the vicinity of the proposed abandonment and that, based on the SHPO's knowledge of the project area, it is unlikely that any archeological resources eligible for listing in the National Register would be affected by the proposed abandonment. Accordingly the SHPO recommends that no archeological investigation be conducted in connection with the proposed abandonment. OEA has reviewed the available information in this proceeding and concurs with the SHPO's comments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the APE of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The search did not identify any federally recognized tribes that may have knowledge regarding properties of religious and cultural significance within the right-of-way of the proposed abandonment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Norfolk Southern Railway Company shall consult with the National Geodetic Survey (NGS) and shall notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers in order to allow for the relocation of the station markers by NGS.**
- 2. Before beginning salvage operations, Norfolk Southern Railway Company (NSR) shall consult with the North Carolina Department of Environmental Quality (NCDEQ) regarding potential impacts from the proposed abandonment related to water quality, solid waste, and hazardous materials and wastes. NSR shall comply with the reasonable recommendations of NCDEQ to mitigate any potential impacts identified during consultation.**

⁶ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited May 31, 2016).

3. **Before beginning salvage operations, Norfolk Southern Railway Company (NSR) shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment on any individual Smooth coneflower (*Echinacea laevigata*) or Michaux's sumac (*Rhu michauxii*) that may be present in the rail right-of-way. During salvage, NSR shall follow the reasonable recommendations of USFWS to prevent impact to members of those species.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding the Board's abandonment process. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 324X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: June 3, 2016.

Comment due date: June 20, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.